Remark

Applicants respectfully request reconsideration of this application as amended.
No Claims have been amended. No Claims have been canceled. Therefore, claims 1-26
are now presented for examination.

35 U.S.C. §103 Rejection

Wugofski in view of Zigmond

The Examiner has rejected claims 1-5, 7, 9-22 and 25 under 35 U.S.C. §103 (a) as
being unpatentable over Wugofski et al., U.S. Patent No. 6,003,041 ("Wugofski") in view
of Zigmond et al., U.S. Patent No. 6,698,020 ("Zigmond"). Wugofski has been
addressed in great detail in prior actions for this application and its related applications.

The Examiner's description of Wugofski suggests that there is more to Wugofski
than the specification explicitly describes. The operation of selecting a device does not
have any decision aspect to it. The Wugofski device receives the user selection, retrieves
the corresponding source/connection identifier and then switches to the identified source.
Similarly, the operations of identifying multiple versions and identifying multiple
characteristics is simply entering records in a database that are displayed on demand.

As to Zigmond, the section referred to by the Examiner explains that a user can
enter a parental lock code. It is not clear, but it would appear that when the lock code is
then the R rated version of a commercial is selected instead of the PG rated version. The
Examine would seem to be arguing that it would be obvious to use Zigmond to
automatically select an R rated version of a program out of the EPG and that the claims
would read on this.

A first significant difference is that Zigmond, like so many other references is directed to commercials and not to programs. The different nature of commercials has been discussed previously. Those remarks are reproduced here for the Examiner's convenience.

In Rosser, there is a downloaded look-up table that would appear to map the inferred demographic/psychographic user profile to tags encoded with the commercials to allow the viewer and commercial to be matched. So any data entered by a viewer is used only indirectly in this demographic/psychographic process. In addition, characteristics of the advertisements are not compared to user preferences for those characteristics, instead a viewer profile is compared to the advertiser's target audience. This indirect process in Rosser is designed to select advertisements for maximum commercial effect (likely buyers), i.e. the advertiser's preference not the user's preference.

This last point can be further elucidated. Suppose Claim 1 is read onto Rosser. Limitations about the electronic programming guide, selecting a television program, multiple versions of that program, actions taken at the same electronic device, etc. are ignored. In such a reading Claim 1, may be read as receiving user preferences for advertisements, identifying characteristics of the advertisements and selecting advertisements that most closely match those user preferences. First, as mentioned above, Rosser does not compare what the user enters to any characteristics of an advertisement. Rosser compares a profile to an intended audience. Putting even this difference aside for purposes of an obviousness argument, what then are the preferences that a user may enter?

If the Rosser viewer entered, the types of characteristics suggested in Claim 7, and then advertisers would not be helped. These characteristics have little, if anything, to do with whether the viewer is a likely buyer. If the Rosser viewer entered information about the products that he would like to buy, then this information can only be used indirectly. Assume, for example, that the buyer wants to see ads about Toyota Camrys and Honda Accords. This may be exactly the person that Ford and Chevrolet want to advertise to. Rosser either frustrates Ford and Chevrolet, or shows the viewer commercials that he doesn't want to see. Even if the Rosser viewer entered a preference for mid-size cars generally, this may be the viewer that advertisers for car insurance companies, car accessories, car repairs, car supplies, gasoline stations, regional hotels, etc. may want to advertise to.

The very nature of advertising is to reach a likely buyer that is not currently planning on buying the product. The person who already intends to buy is not a good target for advertising. This is why Rosser focuses on demographic/psychographic profiles. The goal is to select something that the viewer would not select but that will influence the viewer because the

advertisement is targeted to that type of person. The only useful data that a user could enter is the type of demographic/psychographic data that Rosser tries to infer. (12:61) It would defeat the purpose of Rosser to choose commercials that match with the user's own entered preferences, yet this is precisely what Claim 1 recites, selecting "one of the multiple versions for display by comparing the identified characteristics to the received user preferences for television program characteristics."

It is Applicants' position that commercials present different challenges in that while advertisers want to know who they are advertising to, they do not want the user to have significant control over the commercials. Fundamentally, advertisers do not want the commercials to be enjoyed as entertainment, but only to be remembered in connection with the product. These differences limit the applicability of advertising references as explained further below.

In the case of Zigmond, there are only two ways that the user can control the commercials. First there is the content rating pointed out by the Examiner. While the user does not select the movie trailer, the user can affect whether the R rated or PG rated trailer is shown. The other control is that the user may request or block advertisements for selected classes of goods or services (Col. 14, lines 24-26). This may work if the user decided to block ads for cigarettes, but the broadcaster may have trouble if too many users chose to block ads for cars which currently sponsor a large amount of television. In any event, in the second case, there is no suggestion of multiple versions, this only applies to the ratings case.

Looking more closely at Claim 1, as with Rosser, Zigmond has no connection with an EPG, no selecting a program, and fewer of the actions taken at the same electronic device. Zigmond also does not have "a set of characteristics", nor comparing the set to multiple user preferences.

There is also very little to support the identifying and selecting steps. The Examiner relies on Wugofski for these, but in Wugofski, things are not identified in a way that would allow them to be compared with each other. Wugofski displays stored data, but there is no suggestion that anything is identified sufficient to let it be compared.

In Zigmond, there is no mechanism to select the R rated version over the PG rated version. "Content rating selection may be used to choose between different version of an advertisement for one product." This statement does not support identifying the rating, comparing the rating to the user entered rating and selecting based on that. It would appear that "SELECT AD ACCORDING TO CRITERIA" 110 is performed in the "AD SELECTION CRITERIA" drum 83 of the Ad Insertion Device 80, 60, 36. There is no statement of how these operate other than that there are rules and criteria that are applied to make a selection. There is no mention of even whether there are any characteristics associated with the ads. Accordingly, the specific selecting operations are not described in either reference.

For these reasons, the rejection is believed to be traversed.

35 U.S.C. §103 Rejection

Wugofski, Zigmond and Rosser

The Examiner has rejected claims 6, 8, 20, 23-24 and 26 under 35 U.S.C. §103 (a) as being unpatentable over ("Wugofski") in view of ("Zigmond"), and in further view of Rosser, U.S. Patent No. 6,446,261 ("Rosser"). Rosser has been addressed in previous remarks and does not show the elements missing from the Wugofski, Zigmond combination.

35 U.S.C. §103 Rejection

Wugofski in view of Goldschmidt

The Examiner has rejected claims 1-5, 7, 9-22 and 25 under 35 U.S.C. §103 (a) as being unpatentable over ("Wugofski"), in view of Goldschmidt, U.S. Patent No. 6,295,646 ("Goldschmidt"). In Goldschmidt, the Examiner refers to the explanation of Figure 7. At step 701 a list of preferred entertainment selection sources is referenced. At step 702, the video data for these sources is obtained and, in later steps, it is displayed. Applicants do not find a suggestion of identifying different sources for a selected program and then selecting that version based on user preferences.

The Examiner has stated that the video data for the selection source would be tuned, when multiple versions of the same entertainment program are available. Of course, the video data fro the preferred selection source would be tuned when multiple versions of the same entertainment program are available. It would appear in this context that Goldschmidt will tune to the preferred selection source regardless of what may be available from other sources.

This is different from what is described in e.g. claim 1, in which there is identifying versions, identifying characteristics of the versions and comparing the identified versions. The Examiner has relied on Wugofski to identify the versions and obtain their characteristics, however, the Examiner has not pointed out how any comparison would be made with that information.

35 U.S.C. §103 Rejection

Wugofski, Goldschmidt and Rosser

The Examiner has rejected claims 6, 8, 20, 23-24 and 26 under 35 U.S.C. §103 (a) as being unpatentable over ("Wugofski"), in view of ("Goldschmidt") and in further view of ("Rosser"). As stated above, Rosser has been addressed in previous remarks and does not show the elements missing from the Wugofski, Zigmond combination.

Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.
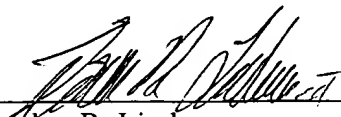
Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: July 13, 2006

Gordon R. Lindeen
Reg. No. 33,192

12400 Wilshire Boulevard, 7th Floor
Los Angeles, California 90025-1030
(303) 740-1980

Docket No: 42390P6482D
Application No: 09/779,779   7